

REMARKS

By the present amendment, the title has been amended essentially in accordance with the suggestion contained in the Office Action. In addition, claim 1 has been amended to obviate the examiner's objections thereto and/or to further clarify the concepts of the present invention. In particular, independent claim 1 has been amended to, among other things, incorporate the subject matter of claim 4 therein. Accordingly, claim 4 has been canceled and the dependency of claims 5 and 6 has been modified. Entry of these amendments is respectfully requested.

In the Office Action, the title was objected to as not being sufficiently descriptive and a new title was proposed. As indicated above, the title has been amended essentially in accordance with the suggestion contained in the Office Action.

Claims 1, 3 and 7 were rejected under 35 USC § 102(e) as being anticipated by the cited patent to Baron et al. In making this rejection, the position was that the cited patent teaches a data recording device as claimed which includes a specifier, a file mover, a judge for calculating remaining capacity and a first and second data writer as claimed in independent claim 1. Further, the specifics of the data recording device as defined by dependent claims 3 and 7 were also asserted to be taught by the cited patent. Reconsideration of this rejection in view of the above claim amendments and the following

comments is respectfully requested.

As noted above, independent claim 1 has been amended to, among other things, incorporate the subject matter of dependent claim 4 therein. Thus, it is submitted that the subject rejection is now moot. Accordingly, withdrawal of the rejection under 35 U.S.C. § 102(e) and allowance of claims 1, 3 and 7 as amended over the cited patent are respectfully requested.

Claims 4-6 were rejected under 35 USC § 102(b) as being anticipated by, or in the alternative, under 35 USC § 103(a) as being unpatentable over, the above patent to Baron et al in view of the patent to Gamon. In making this rejection, it was acknowledged that the Baron et al patent does not teach a method of providing a camera with the ability to allow the user to restore images in the archive directory to the directory they were in prior to archiving nor to change the extension of the file upon restoring the file. The Gamon patent was then asserted to provide these teaching deficiencies. Reconsideration of this rejection in view of the above claim amendments and the following comments is respectfully requested.

In support of the patentability of the presently claimed invention over the teachings of the cited patents, it is submitted that neither provides a suggestion to motivate one of ordinary skill in the art to combine their teachings in the manner proposed by the examiner.

Among other things, the Baron patent is directed to an image storage queue for storing images according to archival status which is used in a digital camera, whereas the Gamon patent is directed to an information processing system which utilizes configurable categories of confirmation message. It is well established principle of U.S. patent practice that the prior art must contain some suggestion for combination since without such, any combination is pure speculation on the part of the examiner and is based on a prohibited hindsight reconstruction from applicants' own disclosure.

Furthermore, it is submitted that the cited patents, whether taken singly or in combination, do not teach or suggest a data recording device as now recited in amended claim 1. In particular, it is submitted that the patents do not teach or suggest, among other things, a data recording device which changes the file name of a restored file to a file name different from any of the file names if a file having the same name is present, that is, a file restorer which includes a "changer for changing the file name to a file n name different from any of the file names" as is now recited in amended claim 1.

For the reasons stated above, withdrawal of the rejection under 35 U.S.C. § 103(a) and allowance of claims 1-3 and 5-7 over the cited patents are respectfully requested.

Applicants acknowledge with appreciation the indication that claim 2 was not taught by the prior art and thus this claim would be allowable if rewritten in independent form.

Serial Number: 10/611,435  
OA dated January 24, 2007  
Amdt. dated May 24, 2007

In view of the foregoing, it is submitted that the subject application is now in condition for allowance and early notice to that effect is earnestly solicited.

In the event this paper is not timely filed, the undersigned hereby petitions for an appropriate extension of time. The fee for this extension may be charged to Deposit Account No. 01-2340, along with any other additional fees which may be required with respect to this paper.

Respectfully submitted,

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